

STATE OF MICHIGAN
COURT OF APPEALS

WILLIAM REEVES,

Plaintiff-Appellant,

v

LANCE LOVEGROVE,

Defendant-Appellee.

UNPUBLISHED
February 17, 2004

No. 243583
Genesee Circuit Court
LC No. 01-071728-CP

Before: Schuette, P.J., and Meter and Owens, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a judgment of no cause of action granted on defendant's motion at the close of plaintiff's opening statement at trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not err in not waiving opening statements. Plaintiff never requested a waiver and did not obtain the consent of defense counsel. MCR 2.507(A). Plaintiff's claim that the court erred in not allowing him to finish his opening statement is without merit. Plaintiff waived any claim of error when he affirmatively stated to the court that he had completed his opening statement. *People v Carter*, 462 Mich 206; 612 NW2d 144 (2000); *McClain v Univ of Michigan Bd of Regents*, 256 Mich App 492, 494-495 n2; 665 NW2d 484 (2003).

We find no error with respect to the court's entertaining defendant's motion to dismiss at the close of plaintiff's opening statement. MCR 2.504(B)(1); MCR 2.507(A); *Stevens v Stevens*, 355 Mich 363, 368; 94 NW2d 858 (1959). Nor do we find any error in the decision to dismiss the case with prejudice. An involuntary dismissal under MCR 2.504(B) "operates as an adjudication on the merits." MCR 2.504(B)(3).

Affirmed.

/s/ Bill Schuette
/s/ Patrick M. Meter
/s/ Donald S. Owens